

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
BROADCAST MUSIC, INC., *et al.*

Plaintiff,

-against-

FIVE D'S, INC., d/b/a DELANEY'S, *et ano.*,

Defendants.
-----X

**SUPPLEMENTAL
REPORT AND RECOMMENDATION**

CV 04-3459 (DRH)

ORENSTEIN, Magistrate Judge:

In its Report and Recommendation dictated into the record on July 20, 2006, this Court reserved decision until plaintiffs filed and served a further submission regarding its application for attorneys fees. *See Transcript of Proceeding*, July 20, 2006; *Order*, dated June 6, 2006, Orenstein, M.M.J. On September 11, 2006 plaintiffs served the additional papers. *See Docket Entry no. 21*. Defendants have not filed any opposition to the application for attorneys fees on the Affidavit in Further Support of Attorneys Fees.

Despite defendant's failure to file any opposition to the request for legal fees this Court has reviewed the Affidavit in Further Support of Attorneys together with the attached computer time sheets.

After review of the Affidavit in Further Support of Award of Attorneys Fees and the computer time records with respect to the varied legal services performed, this Court Reports and Recommends that the rates set forth per hour of the lawyers and others are reasonable and well-within the rates prevailing in this legal community where the Court presides. *Farbotko v. Clinton County of New York*, 433 F.3d 204 (2d Cir. 2005); *Luciano v. Olsten Corp.*, 109 F.3d 111 (2d Cir. 1997). This Court has also reviewed the amount of time expended to perform the legal services described and find that the entries reflect times that are within the bounds of reasonable litigation practices.

Accordingly, this Court reports and recommends that plaintiffs be awarded the sum of \$6,225.00 as and for attorneys fees.

Any objections to this Report and Recommendation must be filed with the Clerk of the Court with a copy to the undersigned within fifteen (15) days of the date of this Report. Failure to file objections within this period waives the right to appeal the District Court's order. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e); *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996); *IUE AFL-CIO Pension Fund v. Herrmann*, 9 F.3d 1049, 1054 (2d Cir. 1993); *Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993); *Frank v. Johnson*, 968 F.2d 298, 299 (2d Cir. 1992).

Dated: Central Islip, New York
September 29, 2006

MICHAEL L. ORENSTEIN
United States Magistrate Judge